

REMARKS

The Examiner is thanked for the review of the present patent application. Claims 1-40 are pending in this application.

Rejections under 35 U.S.C. § 102

Claims 1-40 were rejected under 35 U.S.C. 102(e) as being anticipated by Jain et al. (U.S. Patent Application No. 5,675,742)(hereinafter referred to as "Jain"). This rejection is respectfully traversed. Applicant submits that the cited prior art does not disclose or suggest the claimed inventions for at least the reasons stated below. Independent claim 1 includes the feature of adjusting the a data transfer rate by reducing the data transfer rate in direct correlation to the level of data transfer congestion as indicated by marked data. Independent claims 13, 26, and 39 include the feature of setting a probability factor where the probability factor increases as the capacity level increases and decreases as the capacity level decreases. At the very least, Applicant respectfully submits that Jain does not disclose or suggest the features as discussed above.

To support a section 102 rejection, the every feature of the claimed inventions must be shown in the reference. (See MPEP 2131) In addition, the identical invention must be shown in as complete detail as is contained in the claim. (See MPEP 2131). Applicant respectfully submits that the cited prior art does not disclose or suggest every feature of the claimed invention nor does the cited prior art show the identical invention in as complete as detail as contained in the claim.

With respect to claim 1, Applicant respectfully submits that, at the very least, the cited portions of Jain does not disclose or suggest reducing the data transfer in direct correlation to

the level of data transfer congestion. Applicant respectfully submits that Jain uses a specific threshold of congestion to implement congestion control. The Office is respectfully directed to column 11 lines 15 through 27 of Jain which states in pertinent part:

After examining a predetermined number of consecutively received flags 21, equal in number to the current size of the source window, the source 7 calculates the fraction of flags which are conditioned (step 71) and then tests to determine if the calculated fraction equals or exceeds a flag threshold (step 73), which in one specific embodiment is 0.5. Of course, other thresholds may be selected depending upon desired performance goals. If the calculated fraction equals or exceeds the flag threshold, the signal filter algorithm 29 requests a decrease in the window size by branching to step 75 of the load adjustment algorithm 31. Otherwise, the filter algorithm 29 authorizes the window size to increase by branching to step 77 of the load adjustment algorithm 31. (Emphasis added)

Therefore, Jain discloses using a specific threshold at which the reduction of the window size is implemented. Jain further proposes a specific multiplicative decrease of the window size. (See Jain column 11, line 34) Consequently, Jain discloses a method where an amount of window size decrease is the same whether the calculated fraction of flags is a little above the specific threshold (not much congestion) or a lot above the specific threshold (large amount of congestion). As a result, Applicant respectfully submits that Jain does not disclose or suggest reducing the data transfer in direct correlation to the level of data transfer congestion.

With respect to independent claims 13, 26, and 39, Applicant respectfully submits that, at the very least, the cited portions of Jain do not disclose or suggest the feature of setting a probability factor where the probability factor increases as the capacity level increases and decreases as the capacity level decreases. Applicant respectfully submits that Jain uses a specific queue length to determine whether a flag is set. The Office is respectfully directed to column 8 lines 1 through 7 of Jain which states in pertinent part:

Using the monitored queue length, the router 9 executes the filter function 25 according to which it calculates an average queue length and then determines whether the average queue length equals or exceeds a preselected length. That is, after processing the filter function 25, the

router has a value which is less sensitive to transitory peaks in queue length. (Emphasis added)

As can be seen, Jain discloses usage of a particular preselected length of the average queue length at which (or above which) the flag is set. Jain therefore does not disclose setting probability factor that increases as the capacity level of the input buffer increases and decreases as the capacity level of the input decreases. In fact, the Office is further respectfully directed to column 8 lines 35 through 55 of Jain which states in pertinent part:

Next, according to step 41 of the filter function 25, the router 9 tests the average queue length to determine whether it is greater than a preselected length. It has been determined that, regardless of whether the inter-arrival time distributions and the service time distributions for the router 9 are completely deterministic or exponential, the knee occurs when average queue length is equal to one. For other distributions, this is approximately true. Therefore, a preselected length equal to one is used in one specific embodiment. If the average queue length is greater than one but less than or equal to an override level, the router 9 moves along branch 43 and invokes the feedback selection function 27 which identifies specific sources-destination pairs whose packet transmission rates through the router 9 (i.e. throughputs) should be reduced and sets the congestion avoidance flag 21 in all packets 13 associated with those S-D pairs. On the other hand, if the average queue length is less than or equal to one, the router 9 does not invoke the feedback selection function 27 and, instead, moves along branch 45 to step 47 in which the router allows all packets 13 to pass through without disturbing their flags 21. (Emphasis added)

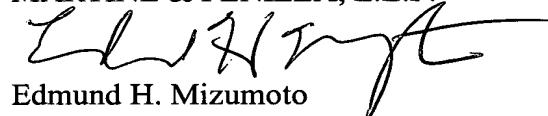
Therefore, Jain is again disclosing one particular preselected length which, in the above cited section, is one. Consequently, Jain does not disclose setting the probability factor which increases as the capacity level increases and decreases as the capacity level decreases. In addition, Jain discloses that above the particular average queue length that all packets associated with the S-D pairs are flagged. Therefore, Jain also fails to disclose the randomly generating a value where the value is indicative of whether the data packet sent by the sending switch is to be marked with a congestion indicator. Consequently, Applicant respectfully submits that Jain does not disclose all features of the claimed inventions as is required in a section 102 rejection. As a result, Applicant respectfully submits that independent claims 1, 13, 26, and 39 are allowable. In addition, Applicant respectfully

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submits that the dependent claims are allowable for at least the same reasons as the independent claims. Therefore, Applicant respectfully requests that the section 102 rejections be withdrawn with respect to claims 1-40.

In view of the foregoing, Applicant respectfully submits that claims 1-40 are in condition for allowance. Accordingly, a notice of allowance is respectfully requested. In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at **(408) 749-6900 ext. 6927**. If any additional fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees to Deposit Account No. 50-0805 (Order No. ADAPP135).

Respectfully submitted,
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